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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

)
Amendment of Part 90 of the)
Commission's Rules to Facilitate)
Future Development of SMR Systems)
in the 800 MHz Frequency Band)
Commercial Mobile Radio Services)

PR Docket No. 93-144 ✓
RM-8117, RM-8030
RM-8029

and)

)
Implementation of Section 309(j))
of the Communications Act -)
Competitive Bidding)
800 MHz SMR)

PP Docket No. 93-253

**COMMENTS OF
ANHEUSER-BUSCH COMPANIES, INC.**

Anheuser-Busch Companies, Inc. ("Anheuser-Busch"), by its attorneys, submits these comments in the above-captioned dockets.

STATEMENT OF INTEREST

Anheuser-Busch is a licensee of 800 MHz trunked, internal-use only business radio licenses. Anheuser-Busch relies on the business radio service to efficiently and safely coordinate its workforce and customers at its plant facilities and amusement parks throughout the United States. This proceeding proposes, inter alia, to change the rules and policies concerning eligibility of the

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Specialized Mobile Radio ("SMR") service for 800 MHz channels for General Category and for inter-category sharing ("Pool Channels"). As a holder of business radio licenses allocated for the General Category and the Pool Channels, Anheuser-Busch has an interest in this proceeding.

INTRODUCTION

In the Further Notice of Proposed Rule Making ("FNPRM") of the subject proceeding, the Federal Communications Commission ("Commission") proposes a variety of licensing and competitive bidding rules for the 800 MHz SMR service. Specifically, the Commission proposes in the FNPRM to auction Major Trading Area ("MTA") and "local" 800 MHz SMR licenses. In addition, the Commission proposes to change the regulation of 800 MHz SMRs for the General Category channels and the Pool Channels. The Commission tentatively concludes that it should revise its eligibility rules for the General Category and Pool Channels to prohibit SMR and non-SMR applicants from applying for the same channels in the future. The FNPRM also seeks comment on whether the Commission should (1) eliminate SMR eligibility for all future licensing for General Category and Pool Channels, (2) prohibit future inter-category sharing by SMR applicants on Pool Channels, but designate a portion of the General Category for SMR-only, and (3) designate the entire General Category for future licensing exclusively to SMR applicants.

I. The Commission Should Not Change the Eligibility Requirements for the General Category and Pool Channels

Anheuser-Busch has relied upon the General Category and Pool Channels in the past to meet the trunked internal mobile communications requirements of its facilities. For example, at Anheuser-Busch's headquarters in St. Louis, two of the channels included in its trunked business radio system associated with call sign WPDA728 are allocated by the Commission for SMR but licensed to Anheuser-Busch as business radio pursuant to the inter-category rules.¹ Anheuser-Busch qualified for these SMR-allocated channels due to the unavailability of business radio channels in St. Louis. Accordingly, the Commission's existing policies for the General Category² and Pool Channels provide entities like Anheuser-Busch with the flexibility to meet evolving communications requirements in an era with growing demand for mobile services' spectrum.

Without access to the General Category and Pool Channels, Anheuser-Busch would not be able to adequately serve the communications needs of its facilities. In the case of the St. Louis headquarters alone, Anheuser-Busch's communications system helps ensure the safety of a workforce of

¹ The subject WPDA728 frequency channels are 862.2625 and 863.2625.

² Under the Commission Rules, upon meeting certain conditions, licensees of trunked systems may add conventional General Category channels to their systems. See, e.g., 47 C.F.R. § 90.631.

approximately 2,000 people and the efficient, timely coordination of its production output, upon which a significantly larger number of affiliated contractors and distributors depend. Therefore, Anheuser-Busch submits that the existing General Category or Pool Channel eligibility rules serve the public interest and the Commission's obligation to efficiently manage the spectrum by providing certain licensees in congested markets with the flexibility to cross service boundaries to access available 800 MHz spectrum.

In addition, the proposed changes are likely to compel 800 MHz trunked private mobile radio service ("PMRS") licensees to migrate to below 470 MHz business radio conventional operations to meet their needs for additional spectrum. This result would conflict with the Commission's finding that trunked business radio systems serve the public interest by improving spectrum efficiency.³

II. The Commission's Proposal to Alter the Licensing of "Private Services" to Create Additional "Auctionable" Commercial Spectrum Violates the Legislative Intent of the Budget Act of 1993

The Commission's proposal to separate SMR spectrum from the spectrum shared with non-commercial radio services in the General Category and

³ See generally Trunking in the Private Land Mobile Radio Services for More Effective and Efficient Use of the Spectrum, PR Docket No. 87-213, 5 FCC Rcd 4016 (1990).

Pool Channels would significantly change how "private services" are licensed.⁴ Specifically, Anheuser-Busch would no longer be eligible for available SMR channels in markets where there are no available business or other non-commercial radio service spectrum.

As the Commission has recognized in the auction proceeding, by providing the Commission with auction authority, Congress did not intend to alter the manner in which "private services" are licensed.⁵ Consistent with the intent of Congress (and the overwhelming majority of the commenters in the auction proceeding), the Commission proposed and ultimately adopted a policy to exclude the General Category and Pool Channels from auctions.⁶ In addition, the Commission noted that the principal use of such spectrum is not to provide compensatory communications services to subscribers because it is shared with services such as business, industrial/land transportation and public safety.⁷ Therefore, the Commission adopted a policy to auction spectrum reserved for SMRs and to not

⁴ Term "private services" was used in the Budget Act of 1993 and interpreted by the Commission in the competitive bidding proceeding, PP Docket No. 93-253, to refer to non-compensatory communications services.

⁵ Second Report and Order, PP Docket No. 93-253, 9 FCC Rcd 2348, 2352 (1994) (citing H.R. Rep. No. 103-111 at 253).

⁶ Id. at 2356.

⁷ Id. at 2353-2354.

auction "shared use" spectrum, such as General Category and Pool Channels, where SMRs share spectrum eligibility with "private services."⁸

Although not expressly stated by the Commission, the principal effect of the Commission's proposal in this proceeding would be to provide the agency with additional 800 MHz SMR spectrum to auction. Specifically, by separating SMRs from the General Category and Pool Channels, the principal use of the 800 MHz spectrum newly reserved for SMR use would be for subscriber based services, thereby becoming eligible for competitive bidding pursuant to Section 309(j)(3) of the Communications Act. Anheuser-Busch submits that by altering the General Category and Pool Channel eligibility rules to create a new block of spectrum reserved for 800 MHz SMRs, the Commission would violate the intent of the Budget Act of 1993 by changing the way "private services" are licensed in order to create more "auctionable" spectrum. Accordingly, Anheuser-Busch submits that if adopted, the Commission's proposals in this proceeding would violate the clear intent of the Budget Act of 1993.

In addition, the Commission has previously interpreted its legislative authority to auction certain radio spectrum and concluded that even in the case of an "auctionable" subscriber-based service such as cellular, the existing licensing scheme should not be altered solely to implement auctions where doing

⁸ Id.

so would conflict with the public interest goals enumerated in the Budget Act.⁹

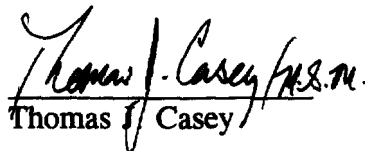
Just as switching from lotteries to auctions to license cellular unserved areas would conflict with the public interest, the proposal to alter the eligibility requirements for the General Category and Pool Channels to increase the amount of auctionable 800 MHz spectrum would contravene the intent of the Budget Act and should be rejected.

⁹ Memorandum Opinion and Order, PP Docket No. 93-253, FCC No. 94-123, 59 Fed. Reg. 37163 (July 21, 1994) (determining that that the public interest requires that cellular unserved area spectrum should continue to be subject to lotteries rather than auctions.)

CONCLUSION

For the aforementioned reasons, Anheuser-Busch submits that the Commission should not alter the existing eligibility rules for the 800 MHz General Category and Pool Channels.

Respectfully submitted by:
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